
**PAKISTAN'S PERSPECTIVE
ON
INVESTIGATION REPORT CONDUCTED BY BG STEPHEN CLARK
INTO
26TH NOVEMBER 2011 US LED ISAF / NATO FORCES ATTACK ON
PAKISTANI VOLCANO AND BOULDER POSTS IN MOHAMAND AGENCY**

Note: This Report does not
have any other versions

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General

1. The US Investigation Report into the Salala incident of 26th November 2011, involving aerial strikes by US aircraft and helicopters resulting into Shahadat (killing) of 24 Pakistani soldiers and injury to 13 others, was received by the General Headquarters (GHQ) Pakistan Army on the 24th of December 2011. The report received is the same unclassified version as available on the Central Command (CENTCOM) Website. The analysis of the US Investigation Report conducted by Brigadier General (BG) Clark has been carried out hereafter with a view to reiterate facts and correct the perspective.

Mandate of the US / NATO Investigation Report

2. It is unfortunate to note that the mandate given to the US Investigating Officer (BG Stephen Clark), did not include affixing specific responsibility for the grave incident (Reference: General Mattis' letter to Brigadier General Stephen Clark dated 28 November 2011 appointing him as Investigating Officer, Page 3, Paras 9 and 10). Without this specific mandate the Investigation Report could not have been complete.

3. It is also revealing to read the mandate given to NATO's (North Atlantic Treaty Organization) Allied Joint Force Command (JFC) Brunssum team (headed by Brigadier General Michael Jorgensen) concurrently investigating the incident. In words of the US Investigation Report; "*The JFC Brunssum goal was to conduct an operationally focused fact-finding investigation into the circumstances surrounding the engagement between friendly forces and PAKMIL* (Pakistan

Military)". (Reference: Page 6, Para 1, Lines 11 through 15). Implicit in the mandate is the fact that, Pakistan was considered in an adversarial role and not part of friendly forces.

Background

4. For developing a correct perspective, it is important to give some background before going on to the specifics of the Incident (26th November 2011) itself. The background is covered hereafter under three headings i.e. "Events Leading up to the Incident", "Environment" and finally "Coordination Mechanism".

Events Leading up to the Incident

5. Although the incident of 26th November 2011, was the gravest, it unfortunately was not the first of its kind. The current incident was preceded by four others which happened between June 2008 and July 2011 and resulted in loss of 18 precious lives of our soldiers and injury to 10 others, including an incident at Ziarat Post (Mohmand Agency) on 17th June 2011 which happened close to the area of 26th November 2011 incident. The US / International Security Assistance Force (ISAF) are well aware of these incidents and each time resolved to prevent recurrence. It is illuminating to mention the details of these incidents, the first of which took place on 10th June 2008 at Goraprai Post of Pakistan located in Mohmand Agency, in which US / ISAF carried out an unprovoked aerial strike resulting in Shahadat (death) of eleven Pakistani soldiers and injuries to seven others. The second such incident happened on 30th September 2010 in Kurram Agency at Kharlachi Post, where two US helicopters carried out unprovoked firing on Pakistani Post resulting in Shahadat (death) of three soldiers and serious injuries to three. The third incident took place on 19th July 2011 in Angoor Adda Sector of South Waziristan Agency, wherein; mortar and artillery fire suddenly erupted, initiated by US/ISAF against Pakistani Border Posts at 0945 hours (Pakistan Standard Time). Despite repeated contacts with ISAF, including Lieutenant General (LG) Keen and Major General (MG) Laster and activation of other coordination mechanisms, the fire which was proving fatal continued for several hours resulting in the Shahadat (death) of four Pakistani soldiers. As US / ISAF failed to bring the fire to an end, COAS General Kayani had to intervene personally with Chief ODRP (Office of the Defence

Representative Pakistan), LG Keen at the US Embassy Islamabad, warning, that if the fire did not stop immediately he would order an enhanced level of response, beyond the one which was already being given by Pakistan Military up until that time in the shape of small arms and mortar fire. This intervention finally brought the fire to a halt. The resultant US / ISAF inquiry into this, and other similar incidents remained shy of accepting responsibility and hence failed to hold anyone accountable, as far as we (Pakistanis) know.

Environment

6. Before going into the details of the incident of 26th November 2011 and the US Investigation Report, it is important to understand the environment as well as the coordination mechanisms which existed to prevent exactly such an eventuality.

7. After an extensive nine months operation in Mohmand Agency, Pakistan Army cleared the entire area upto the border with Afghanistan and established several border posts including Volcano and Boulder at the end of September 2011. When the Pakistani forces were carrying out operations in Mohmand Agency, US / ISAF were kept informed and they carried out some supportive operations on the Afghan side, along and close to River Kunar. With no presence of US / ISAF / Afghan forces close to the border on Afghan side, these Pakistani Posts were critical for prevention of terrorists' infiltration from either side of the border. This is substantiated by the US Investigation Report, which when referring to the Area of Operation SAYAQ states, "*..... there had been neither Coalition nor ANSF (Afghan National Security Forces) presence in the area for some time*" (Reference: Page 15, Para 18, Last Line). Pakistan has been experiencing infiltration of terrorists from Afghan Province of Kunar which had become a safe haven for terrorists of all hues including those who had escaped the Pakistan Army's operation in Mohmand. Since September 2011, no crossing from Pakistani side from Mohmand Agency into Afghanistan had taken place, however, unfortunately several large (and some small) scale attacks on Pakistani Border Posts and civilians had occurred regularly, emanating from Kunar and Nuristan provinces of Afghanistan into Dir, Chitral, Bajaur and Mohmand areas of Pakistan. There were seven such major attacks by terrorists from Afghan side

resulting in loss of 102 personnel and injuries to 25 others (security forces and civilians). Pakistan has repeatedly provided specific information to US / ISAF about presence of hard-core terrorist elements including some High Value Targets located in the Afghanistan Province of Kunar and Nuristan.

8. The Pakistani Posts in question (Volcano and Boulder) are located approximately 1450 metres apart on a kidney shaped barren ridge, which is just under 8000 feet high (**Refer Figure 1 below**). The posts were (and are) located 300-400 metres from the international border inside Pakistan. There are a few abandoned huts opposite Volcano Post. Village Maya {map references of which were asked for by Pakistan Military and received from ICEPAK-ODRP (ISAF Coordination Element Pakistan-ODRP) on 29 December 2011 and where ISAF ostensibly carried out operations on night 25/26 November 2011} lies approximately 1.5 kilometres from the Pakistani Boulder Post and 1.2 kilometres from the border. The Pakistani Posts and most of Maya Village are mutually inter-visible. Each of these Pakistani Posts had 5-6 bunkers none of which were underground, but were constructed above the surface of the 8000 feet high ridge which was devoid of vegetation. All these bunkers, therefore, were easily visible from afar. These bunkers and posts had been there for over two months. Volcano Post had 27 personnel while Boulder had 25. They belonged to 7 Azad Kashmir (AK) Regiment of Pakistan Army which had played a crucial role in clearing Mohmand Agency from terrorists and, therefore, were well familiar with the environment and their surroundings. In the absence of any ISAF / Afghan National Army (ANA) / Afghan Border Police (ABP) presence opposite these, and some of the other posts in Mohmand Agency, any movement which is not shared, especially at night close to the border, is assumed to be hostile. Fire, therefore, is carried out on such movement(s). This is true for both ISAF and Pakistan Military for entire Area of Responsibility of ISAF's Regional Command - East (RC-E) and that of Pakistan Military's 11 Corps. Fire is also carried out on **suspected movement(s)**, such a fire is called "speculative fire". On any given night **several** Pakistani Posts, if and when deemed necessary carry out speculative fire.

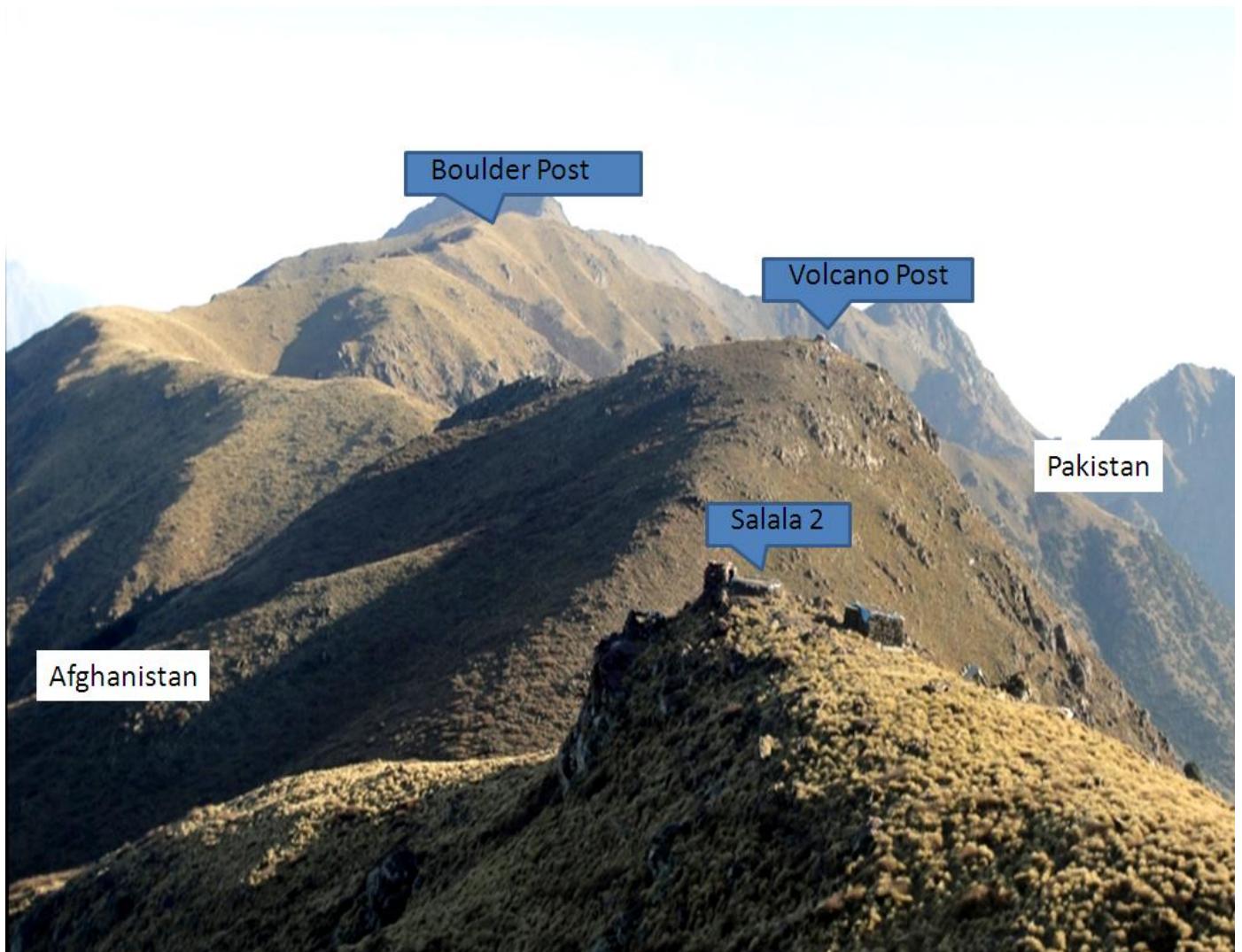


Figure – 1

9. Opposite Mohmand Agency, where these posts were located, US / ISAF had carried out at least 1-2 operations in and around Village Maya prior to 26th November incident in the months of October / November 2011, which involved ground forces and air support. Even when active ground operations are not taking place, an average of 2-3 US / ISAF aerial platforms operate opposite Mohmand Agency on daily basis; these include Intelligence Surveillance and Reconnaissance (ISR) aircraft, fighter aircraft, helicopters and drones. Resultantly, it is inconceivable that these or any other Pakistani Posts in the area were / are not known to US / ISAF.

Coordination Mechanism

10. Having elaborated the environment, it is essential to understand the detailed coordination mechanism and mutually agreed procedures which existed between Pakistan and US / ISAF for effective, incident-free, near-border operations. The coordination mechanism includes a number of forums at three different tiers i.e. at strategic, operational and tactical, all meant to build redundancy by timely sharing of information and coordinating near-border operations. At the strategic level, Military Operations Directorate of GHQ interfaces with ODRP headed by (LG Keen) based at the US Embassy Islamabad. Within the US Embassy another setup called ICEPAK also interacts with Military Operations Directorate, GHQ. In addition to this interface, Military Operations Directorate also has communication through the office of the Director General Military Operations (DGMO), with the Headquarters ISAF represented by MG Nicholson, but more regularly with HQ ISAF Joint Command (IJC) represented by MG Laster. Pakistan's Air Headquarters also interacts/coordinates with Tactical Monitoring Cell (TMC) located within US Embassy Islamabad and working alongside ODRP. The strategic coordination mechanism is aided by exchange of Liaison Officers (LOs) at operational level.

11. These operational level measures are further reinforced by tactical level arrangements. These include Border Coordination Centres (BCCs) where Pakistan, US / ISAF and Afghanistan sides are represented by Liaison Officers

for tactical level coordination. One such centre is located opposite Mohmand Agency inside Afghanistan at a place called Nawa. It was this Centre which was responsible for the coordination of operations where the incident took place. These BCCs are centrally linked to Joint Operations Centre at RC-E Bagram through Joint Coordination Centre (JCC) at Torkham with the purpose of sharing operational information and assisting in resolving issues. Additionally, Border Flag Meetings are also organized at local / tactical levels to coordinate routine issues. There are a total of twenty six Pakistani Military LOs deputed for the aforementioned purposes.

12. There also exist mutually agreed procedures for near-border operations. These include; effective utilization of border coordination mechanism, sharing of information about impending operations and coordinating requests for establishing blocking position / conducting complementary operations on the other side of the border. Moreover, in case, if troops of one side come under fire which is originating from across the border, immediate sharing of information about point of origin of fire is done with the side wherefrom the fire is originating. The responsibility thereafter to bring the fire to a halt is of the country from where fire is originating. Finally, in the eventuality of both sides opening fire on each other, immediate cessation of fire must take place as soon as communication is established. Unfortunately, on 26th November 2011, US / ISAF violated all these mutually agreed procedures.

Unfolding of Events

13. Having explained the background (Events leading up to the Incident, Environment, Coordination Mechanism), the details of the 26th November 2011 incident are covered hereafter using the US Investigation Report.

14. The unfolding of events is explained in the succeeding paragraphs under the same three stages or sections {Stage 1: *Preparation and initial operation*, Stage 2: *Contact and lethal action*, Stage 3: *Reaction*. (Reference: Page 11, Para 10)} as enunciated in the US Investigation Report, quoting from the report itself to highlight discrepancies and omissions in US/ISAF version of events so as to

bring facts to the fore. Although, Pakistan Military has differences with some of the timings of the unfolding of the events as given in the US Investigation Report, it has chosen to use the same timings (as given in the US Report) for analyzing, so as to avoid confusion and use a common basis. For the same reason Pakistan Military has also not questioned the existence of an operation called SAYAQQA, planned and conducted on night 25/26 November 2011 by US / ISAF.

Stage 1: Preparation and Initial Operation by US / ISAF (Preparation and Insertion through Helicopters upto Pre-Contact)

15. What we now know as Operation SAYAQQA, was not shared at any level with the Pakistan Military despite multiple existing arrangements between the two sides to do so. The incident is even more regrettable because a few hours prior to it, Commander ISAF (General Allen) and at least two of his senior staff members were in GHQ to coordinate and share details of exactly such operations which ISAF now claims to have conducted on the night of 25/26 November 2011. Major Generals Nicholson and Laster who accompanied General Allen to GHQ on 25 November 2011, briefed DGMO about some other operations in another zone but chose not to share anything about an operation opposite Salala which was to happen the same night and so close to the border. MG Laster at the time of visiting GHQ had already been briefed by his staff about the operation opposite Salala area planned for night 25/26 November 2011. The operation was named SAYAQQA. The US Investigation Report states that, “*The initial CONOP (Concept of Operations) proposed insertion at a Helicopter Landing Zone (HLZ), which was within 1km (kilometre) of the Pakistan (PAK) border..... Accordingly, it was briefed to the IJC’s DCOS JOPS (ISAF Joint Command’s Deputy Chief of Staff – Joint Operations), U.S. Marine Corps Major General (MajGen) James Laster on 22 November 2011. He made two demands: move the HLZ further away from the border, effectively reducing this to a Level 1 CONOP; and, confirm the location of Pakistan’s border checkpoints (Pakistani Posts). The CONOP was rebriefed to him on 23 November 2011 with a HLZ (known as HLZ HOLDEM) 1.3km to the north of the objective (Maya Village) and*

*2.3km from the Pakistan border, and a map produced showing the known PAK border checkpoints (Pakistani Posts). The map did not show checkpoints (Pakistani Posts) in the area where the engagements took place. The CONOP was then approved by MajGen Lesser in his separate capacity as USFOR-A DCOS Interoperability (United States Forces in Afghanistan's Deputy Chief of Staff)" (Reference: Page 11, Para 11.a. of US Investigation Report). MG Lesser's one observation of moving the HLZ away from the border was addressed, the other i.e. "*confirm the location of Pakistan's border checkpoints*" (Reference: Page 11, Para 11.a., Lines 6-7 of US Investigation Report) was not. It is clear from the foregoing that the Pakistani Posts were not verified, despite instructions by MG Lesser. When MG Lesser was re-briefed on the CONOP on 23 November 2011, he should have been told about the Pakistani Posts. As he wasn't told it implies the staff did not carry out adequate pre-mission preparation. This raises serious questions about the planning process because the confirmation of Pakistani posts could easily have been done by a simple ISR sweep. The Investigation Report has also recommended the same (Reference: Page 27, Para 43 of US Investigation Report).*

16. The CONOP approved by MG Lesser should have been shared at various levels in the existing elaborate coordination mechanism meant for this very purpose. It wasn't – intentionally so, due to the mistrust amongst the ISAF personnel towards Pakistan Military. In the words of the US Investigation Report, "*The REL (releasable) PAK CONOP was not released to the PAKMIL in a timely manner – contrary to SOPs (Standard Operating Procedures), order and directives – because of a prevailing sense of mistrust amongst the three forces (PAKMIL, ANSF and Coalition Forces)"* (Reference: Page 28, Para 48, Lines 6 through 8 of US Investigation Report).

17. The US Investigation Report states, "*The NBCC (Nawa Border Coordination Centre) was not provided with a copy of the CONOP through official channels but received a "back channel" copy from an interested third party (reference is not understood)..... ICEPAK (ISAF Coordination Element Pakistan)*

was not provided with a copy of the CONOP".(Reference: Page 12, Para 11.b., Lines 3 through 8). “*The ODRP usually receives near-border CONOPS in advance; however, the CONOP for Operation SAYAQQA had not been sent to the ODRP”* (Reference: Page 14, Para 15, Lines 3 through 5 of US Investigation Report).

18. It is interesting to note that this was not the first time that operations in Maya Village were being carried out; US / ISAF had already conducted 1-2 operations in and around the area of Maya Village in the months of October / November, prior to 26th November incident. It is not possible that even during the previous operation(s), US / ISAF made an innocent omission of not checking the details of the Pakistani Posts.

Stage 2: Contact Stage (Contact and Lethal Action by ISAF)

19. There is no doubt in the minds of Pakistan Military that US / ISAF troops were aware of the border alignment, as at least 1-2 operations had been carried out in and around the Maya Village prior to 26th November incident during the months of October / November. According to the US Investigation Report “*The GF (Ground Forces) were aware of the heightened threat as Coalition Forces had experienced several contacts (coming under fire) in this area, the last being 5 October 2011”* (Reference: Page 15, Para 18, Lines 4-5). This was the same area where operation was being carried out on 26th November 2011. Investigation Report further confirms the fact that US / ISAF troops were aware of the Border when it states, “*At 2206 hours (Afghanistan Standard Time), all elements were “boots on the ground” at HLZ HOLDEM. The GFTL (Ground Forces Team Leader) noted that it was uncharacteristically quiet. As the special operators adjusted to their environment they looked up at a dark gray moonless sky and fixed their eyes upon the rocky ridgeline (the general location of Pakistani Posts) as a reference because it was the only contrasting image that they could see; they were aware that this was the border with Pakistan”.* (Reference: Page 15, Para 20, Lines 1 through 5).

20. According to the US Investigation Report, “*The GF comprised a team of 14 U.S. Special Operations Forces and an ANA CDO (Commando) Company (100 men)*” (Reference: Page 15, Para 18, Lines 1 through 3). The Investigation Report goes on to state, “*The CONOP was rebriefed to him (MG Laster) on 23 November 2011 with a HLZ (known as HLZ HOLDEM) 1.3km to the north of the objective and 2.3km from the Pakistan border*” (Reference: Page 11, Para 11.a., Lines 7 through 9). The GF were, according to the Investigation Report, in Maya Village at *2309 hours*, when they came under fire, “*At 2309 hours the GF came under heavy machine gun fire, the tracer rounds indicating that it came from the eastern ridgeline near the border Following the initial contact of heavy machine gun fire, the rest of the ME (Main Elements) and SE1 (Supporting Elements) were engaged by effective mortar fire; coming from a point on the ridge..... the machine gun fire did not stop but increased and a second mortar round which landed only 50m (metres) from the group, divided the force*” (Reference: Page 16, Paras 22,23 and 24). According to the Investigation Report, it was in response to this Pakistani fire and in self defence that the GF asked for air support. The aerial platforms then engaged the Pakistani Posts, according to the Report, for “*a 90 minute period*” (Reference: Page 4, Para 1, Line 9 of US Investigation Report) (factually Pakistani Posts had been engaged for two hours). In fact the Pakistani Posts had never fired in the direction where US / ISAF patrol (without sharing any information with Pakistan Military) was ostensibly operating. The speculative fire from Pakistan side was undertaken on a suspected militant movement by firing only three mortar and a few machine gun rounds at a location only 400 metres from the Volcano Post, a location which was already registered and which lay almost 1.5 to 2 kilometres away from Maya Village, and in a different direction. Therefore, there is absolutely no chance that this fire could have landed even close to US / ISAF GF, let alone being effective. It is, therefore, evident from the aforementioned detailed account that, by US / ISAF’s own admission, the GF was in Maya Village at 2309 hours (The exact map references / LAT/LONGs of Maya Village were asked for, and provided to Pakistan Military by ICEPAK-ODRP, obviating any possibility of confusion). Even

if they were not in Maya Village at the time, they just could not have been at the location where Pakistani Posts carried out speculative fire, as this was temporally not possible. On any given night **several** Pakistani posts carry out speculative fire if and when deemed necessary.

21. **Figure – 2 below** is illuminating. The **Figure** highlights the distance of the HLZ to Maya Village based on what has been stated in the US / ISAF Investigation Report, “*The CONOP was rebriefed to him (MG Laster) on 23 November 2011 with a HLZ (known as HLZ HOLDEM) 1.3km to the north of the objective (Maya Village) and 2.3km from the Pakistan border*” (Reference: Page 11, Para 11.a., Lines 7 through 9). It also indicates the direction of Pakistani speculative fire which was in a totally different direction. If the GF were, as per timings quoted above, in Maya Village, busy in their operation when they allegedly came under Pakistani Fire; for the report to draw linkage of US / ISAF aerial response to this fire to justify its unprovoked attack is unjustified and violative of self defence ROE (Rules of Engagement).

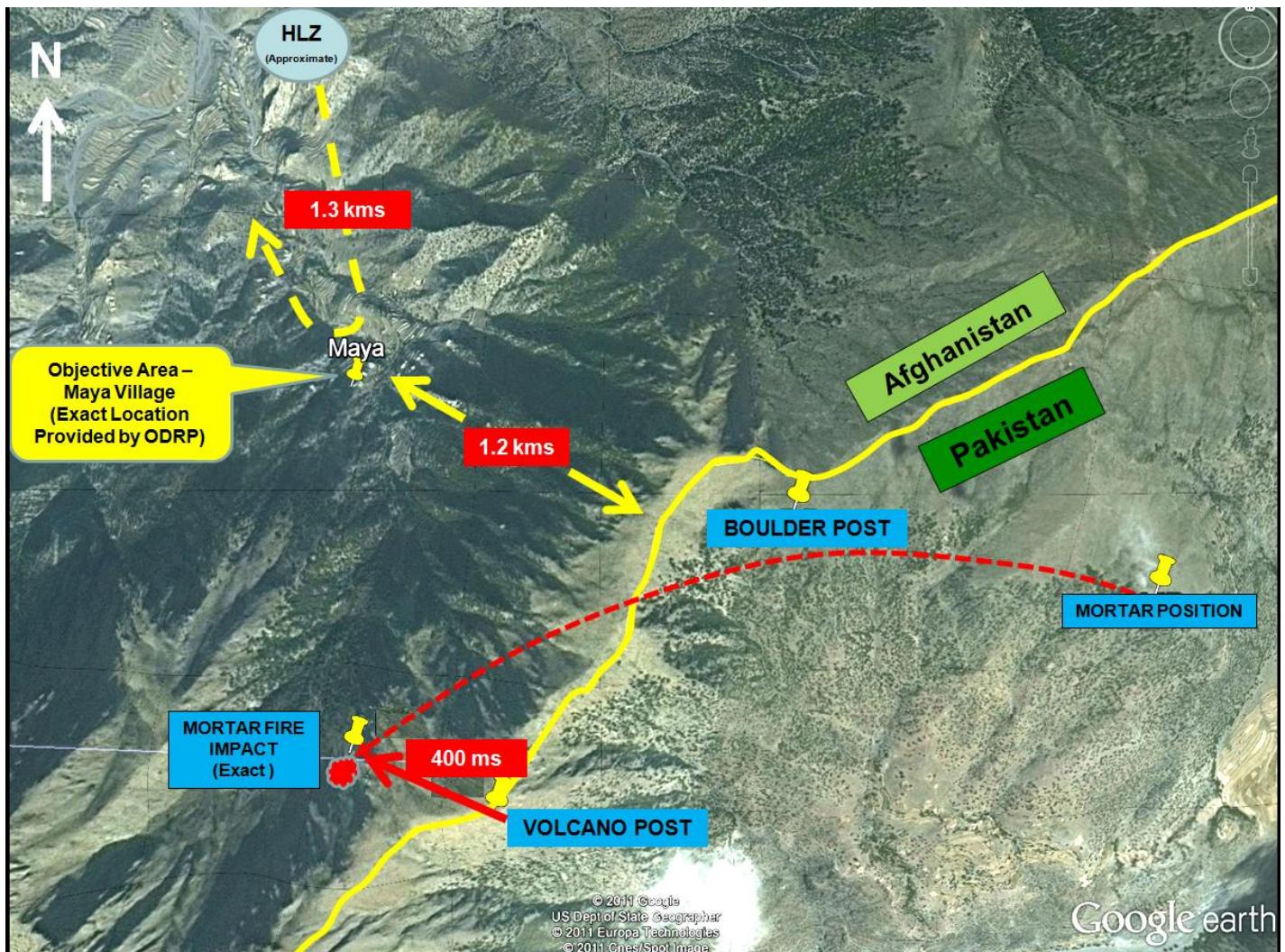


Figure – 2

22. As there are legal implications of using a force as the US / ISAF did, in the manner that it did, therefore, “self defence” has been used to justify an unwarranted and disproportionate response. The ROE of self defence could have only been used, if the fire had been effective, hence the Investigation Report goes to great lengths to assert that Pakistani fire was effective *“a second mortar round, which landed only 50m from the group, divided the force”* (Reference: Page 16, Para 24, Lines 1-2). If the fire of mortar landed so close, there should have been casualties, but according to the US / ISAF Investigation Report itself, *“.....by 0400 hours they were back at their base with no casualties”* (Reference: Page 18, Para 31). Not only was the response, not in self defence, it was

disproportionate, excessive and sustained which resulted in death of 24 soldiers while 13 sustained injuries. The unprovoked engagement thus left behind 7 widows and 16 orphans. By the Investigation Report's own admission it continued for 90 minutes (actually it continued for two hours) and it involved two F – 15s, two Attack Helicopters (AH) – 64 Apaches, one Attack Cargo (AC) 130 and a Multi-mission Cargo (MC) - 12 Intelligence Surveillance Reconnaissance (ISR) aircraft. There were drones in the air as well. The F-15s, Apaches and AC-130 all unloaded full ordnance, including Hellfire missiles on the Pakistani Posts, *"At 0039 hours, an AH-64D engaged an identified tripod weapon inside a bunker in EA-1 (Engagement Area-1) and destroyed it with a HELLFIRE missile"* (Reference: Page 13, Para 12, Lines 15 through 17 of US Investigation Report). These weapon platforms' continuous engagement, spread over as long as almost 2 hours, does not support the assertion that the force used was proportionate and in self defence. To justify the grave US / ISAF excesses committed on the night of 25/26 November, the Investigation Report tries to contort the facts and confuse the issue by stating that, *"The explosions of the AC-130H engagement reverberated around the valleys. Despite the effectiveness of the engagement, the GF continued to be engaged by mortars and machine guns"* (Reference: Page 17, Para 25, Lines 4-5, Para 26, Lines 1-2). Any person even with rudimentary understanding of military operations would know, that when under attack from aerial platforms, the ground troops – in this case Pakistani Border Posts personnel – would respond to the immediate threat i.e. aerial platforms firing on them rather than on a ground force one and a half to two kilometres away. This is exactly what the Pakistani Posts did – fired back at the helicopters, in self defence with all available weapons including artillery.

23. Despite being informed by Pakistan at 2340 Afghan Standard Time (AST) about the aggression by US forces, the engagement of Pakistani Posts continued until 0104 (AST) (Paraphrased by Pakistan Military - References: Annex D, Page D-6, Serial N and Page 13, Para 12 of US Investigation Report) for as long as 1 hour and 24 minutes. In the process, every soldier on and around the posts, even on reverse slope of the Ridge, was individually targeted. This pattern of

engagement cannot be justified by calling it 'self defence'. According to the US Investigation Report, three main aerial fire engagements of Pakistani Posts by US / ISAF took place. Multiple fire engagements by US aerial platforms took place after information about US / ISAF aggression against the Pakistani Posts had been shared at multiple levels, by Pakistan Military, and after Pakistani Military was assured that the fire engagement was being stopped.

24. While this extended fire engagement of Pakistani Posts was going on, the Pakistani Liaison Officer at NBCC was informed about an incident "*just after midnight*" (Reference: Page 14, Para 14, Line 11 of US Investigation Report). By this time both the Pakistani Border Posts had already been targeted by fire. Even when the information was shared, albeit extremely belatedly, with Liaison Officer NBCC, it was of a general area 14 kilometres north of the actual engagement area (Paraphrased by Pakistan Military - Reference: Page 14, Para 14 of US Investigation Report).

25. It is evident from the US Investigation Report that Pakistani Liaison Officer was intentionally not provided with specific map references i.e. LAT/ LONGs "*The BSO (Battle Space Owner) (TF (Task Force) BRONCO), then called the NBCC to report the GF was being engaged. Per RC-E instructions, the BSO passed the exact grid location of the source of hostile fire to the NBCC but informed the NBCC to only pass a general location to the NBCC's PAKMIL LNO (Liaison Officer) as part of the NBCC's effort to have the NBCC's PAKMIL LNO confirm whether or not PAKMIL were at the location of the hostile fire. The NBCC then passed a general location to their PAKMIL LNO using GIRoA (Government of Islamic Republic of Afghanistan) district borders as a geographic reference*" {Reference: Page 22, Para (3) & (4) of US Investigation Report }. At no stage did the Pakistani Liaison Officer say that there were no Pakistani Military Troops in the area. He just could not have said so without map references being provided to him. Therefore, the US Investigation Report is amiss when it states on Page 22, Para 4, Lines 4 and 5 that the Pakistani LO stated that there were no

Pakistani Military troops in the area. US / ISAF have overlooked the fact that by the time information was shared with Pakistani LO, both the Pakistani Posts had already been struck by US / ISAF fire making the whole argument irrelevant.

26. Precious lives could have been saved, had the US / ISAF chain of command / staff been more responsive and alive to the situation. There was no urgency whatsoever in a situation where due to use of overwhelming and disproportionate force by US, lives were being lost and where time was of extreme essence. This displays utter disregard for the lives of the Pakistani soldiers. In the words of the Investigation Report, "*time sensitive senior Command override measures for border area incidents are lacking*" (Reference: Page 5, Para 3, Line 12).

Stage 3: Reaction (Post Action Events)

27. The intelligence picture depicted in the Investigation Report is erroneous and biased wherein it states "*Reports have indicated INS (insurgents) have been wearing PAKMIL uniforms in order to move freely across the border. The ABP (Afghan Border Police) report indiscriminate shooting incidents against civilians and their livestock in the Maya Valley from the border*" (Reference: Page 8, Para 5, Lines 4 through 7). The investigating officer has accepted without verification, the assertions of the Afghan Border Police especially because he and his Investigation Team, according to the Investigation Report, could not visit Village Maya and other areas close to the site of the incident. The US / ISAF Investigation Report states, "*Security concerns did not allow the investigating teams to safely travel to the villages on either side of the Afghanistan – Pakistan border that were near the area of the incident*" (Reference: Page 7, Footnote to Para 3.a., Lines 2 through 4). A few months back in October this year, the Afghan authorities at the highest level had blamed Pakistan publicly for firing hundreds of rounds / rockets and killing numerous civilians in Kunar. ISAF leadership having inquired into the matter confirmed to Pakistan Military leadership that Afghan assertions could not be substantiated and that these were

a result of misinformation originating from the Afghan Border. The allegation against Pakistan was later denied publicly by the Afghan President by agreeing to the ISAF's viewpoint that no artillery / rocket fire had originated from Pakistan. In this backdrop, for the investigating team to take the comments of some individuals located close to the international border on the Afghan side at "face value" and mention them in their report without thorough investigation brings into question the whole exercise.

28. Moreover, reports of discovery of Pakistani Law Enforcement Agencies' uniforms from Maya Village after the end of Operation SAYAQA is an unconvincing attempt to cover the US / ISAF attacks by giving a misleading impression that Pakistani soldiers on Volcano and Boulder posts may well have been mistaken by US / ISAF to be anyone else.

Summary of Pakistan's Viewpoint

29. Pakistan does not agree with several portions and findings of the Investigation Report as these are not factually correct.

30. Pakistan expresses its regret over the mandate and terms of reference given to the Investigating Team which was not mandated to determine or affix responsibility for the incident. (Reference: General Mattis' letter to Brigadier General Stephen Clark dated 28 November 2011 appointing him as Investigating Officer, Page 3, Paras 9 and 10).

31. Pakistan has noted US / ISAF acceptance of its failures, which Pakistan believes were deep, varied and systemic. There have been several similar, though not as grave, US / ISAF failings in the past. Despite promises of thorough investigations, US / ISAF failed to hold anyone accountable after each of these incidents. (Details at Page 2, Para 5 of **this** Report).

32. The fundamental cause of the incident of 26th November 2011 was the failure of US / ISAF to share its near-border operation, with Pakistan at any level. It is highly regrettable that despite this major failing, the Investigation Report has tried to pin partial responsibility on Pakistan (Paraphrased by Pakistan Military - Reference: Page 4, Para 3 of US Investigation Report). Establishing positive identification of the Pakistani Posts which was lacking and which has been acknowledged in the US / ISAF report, was the direct and clear responsibility of US / ISAF who were, by their own admission, carrying out a near-border operation. Positive identification could very conveniently have been done by a simple Intelligence Surveillance and Reconnaissance Aircraft sweep which the US Investigation Report itself has also recommended, (Reference: Page 27, Para 43, Lines 7-8).

33. US / ISAF violated all mutually agreed procedures with Pakistan for near-border operations put in place to avert such uncalled for actions. It is increasingly obvious to Pakistan Military that the entire coordination mechanism has been reduced to an exercise in futility, is more for the purposes of optics and that it has

repeatedly been undermined. There were instructions given to US personnel, as mentioned in the US / ISAF Investigation Report, wherein the **information to Pakistan Military was to be deliberately withheld**. Had the disclosure been honest and as per the agreed procedures, the attacks could have been stopped at the earliest and precious lives saved. Even a cursory reading of Paragraph 38. b. (1) on Page 24 of US Investigation Report would confirm Pakistan's contention. The said sub-paragraph reads: "*The TF (Task Force) BRONCO battle captain provided specific grid references to the ISAF LNO (ISAF Liaison Officer) at NBCC (Nawa Border Coordination Centre) with the stipulation that these specific coordinates were not to be provided to the NBCC's PAKMIL LNO (Pakistan Military Liaison Officer) and that only a general location was to be passed*". The very purpose of sharing information about fire originating from Pakistan was for Pakistan to suppress / stop it. Without giving exact map references (LAT / LONGs), how could this have been achieved?

34. According to well established mutually agreed procedures, in case of fire originating from across the border, the responsibility to suppress / stop it rests on the side from where the fire is originating. In the present instance, no such intimation was received from the US / ISAF. Such an intimation would have demonstrated the bona fides of the US / ISAF stance. The only intimation that was conveyed to the Pakistan Liaison Officer at Nawa Border Coordination Centre was **after** both the posts had been struck by fire and even this late intimation was incorrect by as much as 14 kilometres. The US Investigation Report states, "*It was later discovered that a misconfigured electronic CPOF (Command Post of the Future) map overlay was used by the NBCC (Nawa Border Coordination Centre), this caused the NBCC to refer the NBCC's PAKMIL LNO (Pakistan Military Liaison Officer) to a "general location" that was 14km to the north of the actual engagement area*" (Reference: Page 14, Para 14, Lines 13 through 15).

35. In an effort to provide justification for US / ISAF actions, the Investigation Report has gone to extreme lengths to construct the whole incident as an act of

“self defence” and the force used by US / ISAF / NATO as legal and proportionate. At no stage did the Pakistani Posts fire on, or in the direction of the Helicopter Landing Zone or the route from Helicopter Landing Zone to Maya Village. The sketch of the incident site at **Figure – 2** (Maya Village has been marked on the map as per the map references provided by ISAF Coordination Element Pakistan / ODRP) clearly belies the ISAF assertion about responding in self defence. The report accepts that there were no US / ISAF casualties, yet it still argues the self defence Rules of Engagement by stating that the “*fire on GFs (Ground Forces) was effective*” (Paraphrased by Pakistan Military – Reference: Page F-2, Paras 6 and 7). In fact, it were the Pakistani Posts which were defending against an unprovoked attack. Pakistan, therefore, rejects the findings of the US Investigation Report that: “*the catalyst for this tragedy ultimately was the initial and continuing engagement by PAKMIL (Pakistan Military) forces on Coalition Forces – who in turn responded accordingly and appropriately*” (Reference: Page 29, Para 53, Lines 2 through 4). The US Investigation Report in fact ignores the sentiments and questions the intelligence of the Pakistani people by stating that “*The LOAC (Law of Armed Conflict) was respected and the ROE (Rules of Engagement) were applied correctly and legally*” (Reference: Annex I, Page I-1, Para 8).

36. The following facts and their sequence, strengthen the opinion that the said incident was **deliberate at some level**:-

- a. US / ISAF having carried out 1-2 operations in and around Maya Village prior to 26th November incident in the months of October / November, (Paraphrased by Pakistan Military - Reference: Page 15, Para 18, Lines 4-5 of US Investigation Report), having seen and closely monitored Pakistan’s nine months long operation in Mohmand Agency leading to the creation of Volcano and Boulder Posts, the location of the posts atop a barren ridge as high as approximately 8000 feet and the US / ISAF’s cutting edge surveillance / observation technology, all defy US / ISAF contention

that they were unaware about the location of these Pakistani Posts. (There have been incidents in the past where as small an activity, as addition of new weapons on **existing** Pakistani posts by Pakistan Military, were immediately noticed by US / ISAF and their purpose discussed with Pakistan).

- b. The US aircraft / helicopters continued to target Pakistani Military personnel deliberately for two hours. Even the US Investigation Report admits the attack spread over "**90 minutes**" - far too long a time for an "innocent" engagement. According to the US Investigation Report, three main aerial fire engagements of Pakistani Posts by US / ISAF took place. Multiple fire engagements by US aerial platforms took place after information about US / ISAF aggression against the Pakistani Posts had been shared at multiple levels, by Pakistan Military, and after Pakistani Military was assured that the fire engagement was being stopped.
- c. Even if we assume that these posts were not known to US / ISAF, within minutes of initiation of unprovoked attack by US, US / ISAF had been informed at multiple levels by the Pakistani side, but they continued firing with impunity.
- d. All Pakistani soldiers were in uniform and could not be mistaken for anyone else.
- e. The failure in timely sharing of Concept of Operations even with concerned **US coordination staff** at Nawa Border Coordination Centre and ISAF Coordination Element Pakistan (which is located in US Embassy Islamabad and manned exclusively by US personnel) raises serious doubts about the incident being "**accidental**".

- f. It is highly improbable that such a large number of mistakes (as acknowledged in the US Investigation Report) could have been coincidental.
37. Unfortunately the impartiality and transparency of the investigation was adversely affected when senior US officials repeatedly stated that the incident was “not intentional”, without waiting for completion of the Investigation. Pakistan believes that this stance may well have influenced the findings of the report.
38. Due to complicated chain of command, complex command and control structure and unimaginative / intricate Rules of Engagement (all acknowledged in US / ISAF Investigation Report), the responsibility for failing to stop the attack rests squarely on US / ISAF. Pakistan Army on its part had, on numerous occasions and at all levels, highlighted the potential problems associated with not having all the forces in the Afghan theatre under a unified command. The activities and operations of US Special Forces and Afghanistan Border Police are but two examples which have been raised consistently by the Pakistani side. The incident of 19th July 2011 in Angoor Adda Sector of South Waziristan Agency, (details mentioned on Page 2, Para 5 of this Report) was also, we believe, a result of lack of unified military command in Afghanistan.
39. Pakistan Military is dismayed to learn that despite being ten years into the war, one reason to which the incident of 26th November 2011 has been attributed is, *“imprecise terminology between the RC-E JOC (Regional Command – East Joint Operations Centre) and SOTF-E JOC (Special Operations Task Force – East Joint Operations Centre)”* (Reference: Page 24, sub-para e, Line 1 of US Investigation Report). This is disturbingly indicative of fundamental flaws in the US / ISAF / NATO procedures.
40. US / ISAF / NATO in knowingly targeting Pakistani Posts well inside Pakistan were in clear violation of the ISAF mandate which is limited to Afghanistan alone.

41. The recommendation of the US / ISAF Investigating Report stating, “*train and practice procedures for cross-border and near-border operations including time-sensitive procedures*” (Reference: Page 5, Para 4, Lines 4-5 of US Investigation Report) is maleficent. Investigating an incident which involves breach of Pakistan’s territorial integrity and sovereignty and putting in a recommendation of how to do it better next time is potentially troublesome for any future cooperation and border coordination.

Additional Details Required

42. Following additional details are required, which may be provided for completing our analysis / assessment:-

- a. The full and complete classified version of the US Investigation Report be made available.
- b. Provision of Intelligence Surveillance and Reconnaissance picture of the complete incident along with all aerial platform videos and record of radio transmissions and communication between the crew(s) of the aerial platforms involved in the incident.

Concluding Remarks

43. The US / ISAF Investigation Report into the 26th November 2011 incident, apart from being factually incorrect, also brings to fore the larger issue of lack of trust of US / ISAF towards the Pakistani Military. Moreover, the unprovoked engagement of Pakistani Posts located inside Pakistan was a clear violation of US / ISAF mandate which is limited to Afghanistan alone. Unfortunately, this was not the first incident of this kind as US / ISAF / NATO have been involved in at least four similar incidents in the past, after each of which, US / ISAF regretted the incident and resolved to prevent recurrence. Not only did the recurrence of incidents continue but as far as we know, no one was ever actually held accountable.

44. The US Investigation Report, is structured around the argument of “self defence” and “proportional use of force”, an argument which is contrary to facts

and therefore self serving. Sustained aggression which continued for as long as “*90 minutes*” despite US / ISAF being informed about the incident at multiple levels by Pakistan Military within minutes of initiation of US / ISAF fire, belies the “self defence” and “proportional use of force” contention.

45. Failure to share information about a near-border operation with Pakistan at any level was a major US / ISAF / NATO omission, as were several others, like the complicated chain of command, complex command and control structure and unimaginative / intricate Rules of Engagement as well as lack of unified military command in Afghanistan.

46. There have clearly been several failures on the part of US / ISAF / NATO (as acknowledged in the US Investigation Report). Trying to affix partial responsibility of the incident on Pakistan (Reference: Page 29, Para 53, Lines 3-4 of US Investigation Report) is, therefore, unjustified and unacceptable.